

# **Memorandum of Agreement Regarding the Department of State's Overseas Personal Services Agreement Authority**

## **I. Purpose**

This Memorandum of Agreement between the Department of State (DOS) and the Department of Energy (the "Participating Agency"), sets forth the terms and conditions under which the Department of State will exercise the authority contained in 22 USC 2669(n), hereinafter referred to as Personal Services Agreement (PSA) authority, on behalf of the Participating Agency.

## **II. Applicability and Definitions**

This agreement applies to Locally Employed Staff (LES) and Family Members (FMs) recruited locally by the Participating Agency and under Chief of Mission authority.

LES is the general term used for Foreign Service Nationals and Locally Employed AMCITs employed by a U.S. Government agency, which is under a Chief of Mission's authority, and compensated under Section 408 of the Foreign Service Act of 1980.

A Locally Employed AMCIT is a U.S. citizen who is a legal resident and has a work permit in the host country, and is employed under a direct-hire appointment, a personal services contract, or a personal services agreement at a Foreign Service post abroad by a U.S. Government agency, which is under a Chief of Mission's authority, and is compensated under Section 408 of the Foreign Service Act of 1980.

A Family Member is the U.S. citizen or foreign national spouse and/or dependents listed on the official post assignment travel orders of a U.S. citizen civil, foreign or uniform service's member, who is assigned for a tour of duty abroad at a Foreign Service post with an agency that is under Chief of Mission authority.

The "Chief of Mission" is the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad, which is designated by the Secretary of State as diplomatic in nature. This includes any individual assigned under Section 502(c) of the Foreign Service Act of 1980, as amended, to be temporarily in charge of such a mission or office. (Sec. 102(3) of the Foreign Service Act of 1980, as amended.)

This authority may not be used to employ individuals to fill positions assigned cashier functions [unless approved by the Department of Treasury and appropriate Treasury documentation is submitted to the Department of State's Office of Overseas Employment (HR/OE/HRM) for review] or to fill positions with contracting authority or for any position assigned responsibilities requiring signatory authority, e.g., certification of vouchers, position classification, personnel actions, etc.

### **III. Conditions and Responsibilities**

- (a) The Participating Agency acknowledges and agrees that:
  - (1) the Chief of Mission has the responsibility to determine the size, composition, and mandate of USG staffing at overseas diplomatic missions and to direct the establishment and implementation of uniform human resource management policies, procedures, and practices to the maximum extent possible;
  - (2) no changes to the Participating Agency position complement and composition at post may be made without Chief of Mission approval, including positions filled through the PSA authority;
  - (3) individuals it hires pursuant to the PSA authority are the employees of the Participating Agency and not employees of the DOS;
  - (4) it bears the responsibility for all aspects of recruitment and the employment relationship, including financial obligations, such as salary and benefits, severance, workers' compensation, and any other employer-related costs, including litigation, that may arise;
  - (5) the governing regulations for individuals hired pursuant to this agreement are the DOS Foreign Affairs Personnel Manuals (3 FAM 7000, 8000, 3 FAH-1, 2), and other DOS policies, procedures, regulations, and guidance as these may evolve over time, used in the manage of LES and FM;
  - (6) the Office of Human Resources Management/OMBE in the headquarters of the Participating Agency is the designated office with the authority and responsibility to coordinate and manage this PSA authority with the Department of State. Said office has the authority and responsibility to assign responsibilities for PSA employment authority, including exercising signatory authority for implementing Personal Services Agreement Actions (JF-62As), to its agency representatives or the DOS Human Resources Officers at posts abroad. The

Participating Agency point of contact in headquarters is designated in attachment A; and,

(7) instructions from the agency's representative at post will be taken by DOS as full authority to act on behalf of the agency, including, without limitation, any actions with respect to hiring, terminating, promoting, etc. DOS will not be responsible for any actions that are taken on behalf of the Participating Agency based on the instructions provided by the Participating Agency representative at post.

(b) The DOS:

(1) Will enter into personal services agreements with individuals to perform services in support of the Participating Agency at posts abroad;

(2) has the responsibility to develop, coordinate, and administer the policies, regulations, and procedures governing overseas human resources management systems for LES and FM. It will monitor posts' administration of these systems and provide policy interpretation and procedural guidance on the management of overseas human resources, and,

(3) agrees to consult with the Participating Agency regarding changes to relevant regulations affecting positions covered under this agreement.

#### **IV. Effective Date**

This agreement is effective upon the date of signing by both parties and shall remain in effect indefinitely.

#### **V. Termination of Agreement**

Either party may terminate this agreement with one year's **written notice to the other party**. However, termination of this agreement will not affect the terms and conditions, including financial obligations, of Personal Services Agreements executed pursuant to this **MOA** prior to said termination. The Department of State will incur no liability for termination of this agreement.

**VI. Approving Officials**

**For the Department of State:**



W. Douglas Frank

Director, Office of Overseas Employment

Department of State

Date: 5/23/03

**For the Participating Agency:**



Claudia A. Cross

Director of Human Resources  
Management/OMBE  
Department of Energy

Date: 5-21-03



Michael C. Kane

Deputy Associate Administrator  
For Management & Administration/NNSA  
Department of Energy

Date: 5/22/2003

**Attachment A to Memorandum of Agreement  
Regarding the Department of State's  
Overseas Personal Services Agreement Authority  
Between the Department and the Department of Energy**

Pursuant to III.(a)(6) of covering MOA, the point of contact in Headquarters is:

Stephen G. Perin  
Director, Office of Human Resources Policy and Planning  
Office of Human Resources Management/OMBE  
(202) 586-8503  
(202) 586-8528  
[Steve.Perin@hq.doe.gov](mailto:Steve.Perin@hq.doe.gov)